

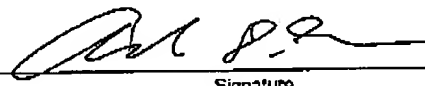
JUL 31 2006

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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) ATT.0100520 (1376-0100520)	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>July 31, 2006</u> Signature <u>Molly K. Harrison</u> Typed or printed name <u>Molly K. Harrison</u>		Application Number 09/992,823	Filed November 14, 2001
		First Named Inventor Daniel W. WONG	
		Art Unit 2131	Examiner Longbit CHAI
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/>	applicant/inventor.	Signature	
<input type="checkbox"/>	assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	Adam D. Sheehan Typed or printed name	
<input checked="" type="checkbox"/>	attorney or agent of record. Registration number <u>42,146</u>	512-439-7100 Telephone number	
<input type="checkbox"/>	attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____	July 31, 2006 Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
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This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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JUL 31 2006

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Daniel W. WONG, et al.

Title: SYSTEM FOR PREVENTING UNAUTHORIZED ACCESS TO  
SENSITIVE DATA AND A METHOD THEREOF

App. No.: 09/992,823

Filed: November 14, 2001

Examiner: Longbit CHAI

Group Art Unit: 2131

Customer No.: 34456

Confirmation No.: 5879

Atty. Dkt. No.: ATL0100520 (1376-0100520)

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Mail Stop AF  
Commissioner for Patents  
PO Box 1450  
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REMARKS IN SUPPORT OF  
THE PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

In response to the Final Office Action mailed January 31, 2006 (hereinafter, "the Final Action"), and pursuant to the Notice of Appeal and Pre-Appeal Brief Request for Review submitted herewith, the Applicants request review of the following issues on appeal.

*The phrase "a first encrypted routine of a software driver is not ambiguous*

Independent claims Claims 1, 17, 31, 40, and 47 each recite "a first encrypted routine of a software driver." The Final Action asserts at page 2 that this phrase is ambiguous under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph. Applicants respectfully traverse this assertion.

According to Section 2173.02 of the MPEP, "[t]he test for definiteness under 35 U.S.C. 112, second paragraph, is whether 'those skilled in the art would understand what is claimed when the claim is read in light of the specification.'" (citing *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1576, 1 USPQ2d 1081, 1088 (Fed. Cir. 1986)). As discussed at page 2 of the Response filed March 29, 2006 (hereinafter, "the Response"), Applicant respectfully submits that one skilled in the art would understand the phrase "a first encrypted

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routine of a software driver" i.e. that the phrase refers to a routine of a software driver, where is routine is encrypted.

The Final Action at page 2 argues that the phrase is ambiguous because "different interpretations can be made as either a) software driver routines...can be encrypted, or b) the routines of crypto-functions to encrypt/decrypt the software drivers data can be encrypted." However, Applicants respectfully submit that one skilled in the art would understand that a software driver can include one or more routines, and that one or more of these routines can be encrypted and that these encrypted routines are encrypted routines of a software driver. One skilled in the art would further understand a software driver can include an encryption routine, that the encryption routine itself could be encrypted, and therefore the encryption routine could be an encrypted routine of a software driver. Thus, the term *encryption* refers to a possible function of the routine, while the term *encrypted* refers to a state of the routine itself. Thus, the term "a first encrypted routine of a software driver" is not ambiguous.

***Glover does not disclose decrypting, at a peripheral device, a first encrypted routine to generate a plaintext routine***

Independent claim 1 recites the features of decrypting, at a peripheral device, a first encrypted routine to generate a plaintext routine. As described at pages 2-3 of the Response, Glover fails to disclose at least these features. According to Glover

The file system driver 124 returns encrypted code 138 to the device driver 122. The encrypted code 138 actually passes back through the device driver 122 to the operating system 120 which in turn provides the encrypted code 138 to the device driver 122 as the reply to the request 136 for the original file. ***The device driver 122 then decrypts the code*** to provide decrypted code 140 to the operating system 120.

*Glover*, col. 11, lines 13-19 (emphasis added). Thus, Glover explicitly discloses decrypting code at a device driver, rather than at a peripheral device as recited in claim 1.

In the Advisory Action date April 14, 2006, page 2, the Office indicates that Glover discloses that the device driver may be located on a disk, and the disk is a peripheral device. However, according to Glover, even if the device driver is initially stored on a disk, in order to perform decryption "[t]he device driver code is copied into memory and loaded into the operating system." *Id.*, col. 10, lines 15-17. Thus, even assuming *arguendo* that the disk of Glover is a peripheral device, the device driver of Glover is not located at the diskette when it

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performs the decryption. Accordingly, Glover does not disclose the features of decrypting, *at a peripheral device*, a first encrypted routine to generate a plaintext routine as recited in claim 1.

Independent claim 31 recites “a peripheral device, said peripheral device to decrypt a first encrypted routine and generate a plaintext routine.” As explained above, Glover fails to disclose that decrypting at a peripheral device, and therefore necessarily fails to disclose a peripheral device, said peripheral device to decrypt a first encrypted routine and generate a plaintext routine.

Independent claim 47 recites “decrypting, at the peripheral device, the first encrypted routine to generate a plaintext routine.” Independent claim 49 recites “sending a first encrypted data associated with an application to a peripheral device, wherein the application is to interface with the peripheral device” and “decrypting, at the peripheral device, the first encrypted data to generate a plaintext data.” As explained above, Glover fails to disclose decrypting at a peripheral device and therefore fails to disclose these features of claims 47 and 49.

***Neither Glover, Freeman, nor Ciacelli disclose or suggest decrypting, at a graphics chip, a first encrypted routine***

Independent claim 17 recites decrypting, at a graphics chip, the first encrypted routine to generate a plaintext routine, wherein the plaintext routine is a version of the encryption routine. These features are not disclosed or suggested by the cited references. According to the Final Action at page 13, these features are disclosed by Glover and Freeman. Applicants respectfully point out that the Office’s assertion that Glover discloses decrypting a first encrypted routine at a graphics chip is inconsistent with the Office’s assertion at page 2 of the Advisory Action that the decryption of Glover is performed at a disk.

Further, the cited portion of Glover, col. 11, lines 18-19 states “The device driver 122 then decrypts the code to provide decrypted code 140 to the operating system 120.” There is no disclosure or suggestion in Glover that the code is decrypted at a graphics chip as recited in claim 17. Further, the cited portion of Freeman, paragraph [0117], discloses a graphics chip, but does not disclose or suggest decrypting at the graphics chip a first encrypted routine to generate a plaintext routine. In addition, Ciacelli does not remedy the deficiency of Glover and Freeman.

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Accordingly, the cited references, individually and in combination, fail to disclose or suggest each and every element of claim 17.

***The cited references do not disclose or suggest a hardware component to decrypt a first encrypted routine***

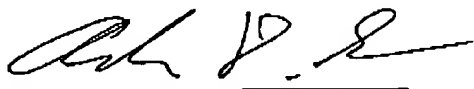
Independent claim 40 recites "a first interface to receive a first encrypted routine of a software driver" and "a first hardware component to decrypt the first encrypted routine." These features are not disclosed or suggested by Glover, Freeman, and Ciacelli, either individually or in combination. As explained above, Glover discloses a device driver that performs decryption. There is no disclosure or suggestion in Glover that a first hardware component is used to decrypt a first encrypted routine of a software driver. As further explained above, Freeman discloses a graphics chip, but does not disclose or suggest decrypting a first encrypted routine of a software driver at the graphics chip. Ciacelli does not remedy the deficiency of Glover and Freeman. Accordingly, the cited references, individually and in combination, fail to disclose or suggest each and every element of claim 40.

***Conclusion***

As discussed above, the Office fails to establish that the cited references disclose or suggest each and every element recited by any of the pending claims. Accordingly, reconsideration and withdrawal of these rejections is respectfully requested.

Respectfully submitted,

7/31/06  
Date

  
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